

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

SIROUS ASGARI,

Defendant.

) CASE NO.: 1:16CR124

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) JUDGE JAMES S. GWIN

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FILED

JUN 27 2019

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

ORDER

(U) This matter is before the Court on the Government's "Government's Classified *Ex Parte, In Camera*, and Under Seal Motion for a Protective Order pursuant to Section 4 of the Classified Information Procedures Act and Rule 16 of the Federal Rules of Criminal Procedure." (hereinafter "Government's Motion"). By its motion, the Government requested that the Court, pursuant to Section 4 of the Classified Information Procedures Act ("CIPA"), Federal Rule of Criminal Procedure 16(d)(1), and the applicable law: (1) conduct an *in camera* and *ex parte* review of the Government's Motion, related memorandum of points and authorities, and the accompanying declarations and exhibits; (2) authorize the Government to withhold from discovery certain classified information; and (3) order that the entire text of the Government's Motion, memorandum of points and authorities, and the accompanying declarations and exhibits shall not be disclosed to the defense and shall be sealed and preserved in the records of the Court to be made available for all future review of these proceedings.

(U) The Court has considered the Government's Motion, its memorandum of law in support of the motion, and the declarations and exhibits filed therewith. Based on its consideration, the Court GRANTS the Government's Motion in its entirety.

(U) The Court finds that the Government's Motion was properly filed *ex parte*, *in camera*, and under seal for this Court's review, pursuant to CIPA § 4 and Fed. R. Crim. P. 16(d)(1). The Court has conducted an *ex parte*, *in camera* review of the Government's Motion, memorandum of points and authorities, and the declarations and exhibits attached to or filed in conjunction with the Government's Motion.

(U) On the basis of the Court's independent review of the information and the arguments set forth in the Government's Motion and related documents, the Court finds that the classified information referenced in the Government's Motion implicates the Government's national security and classified information privilege. The Court also finds that the Government has met the "relevant and helpful" standard articulated in *United States v. Roviato*, 353 U.S. 53 (1957), and *United States v. Yunis*, 867 F.2d 617 (D.C. Cir. 1989), as it applies to the discoverability of classified information where, as here, the Government has properly invoked the national security and classified information privilege. To this end, the Court finds that in applying the *Roviato/Yunis* standard, the classified information referenced in the Government's Motion is not relevant and helpful to the defense. In addition, for the reasons set forth in the Government's Motion and related documents, the Government has shown "good cause" for why this material should be withheld from discovery. *See* 18 U.S.C. App. III § 4; Fed. R. Crim. P. 16(d)(1).

(U) Accordingly, IT IS ORDERED that the Government is authorized to withhold from discovery to the defense the classified information specified in its motion.

(U) IT IS FURTHER ORDERED that the entire text of the Government's Motion, memorandum of points and authorities, and the accompanying declarations and exhibits shall not be disclosed to the defense, and shall be sealed and maintained in a facility for the storage of such classified information by the Classified Information Security Officer as the designee of the clerk of the Court, in accordance with established security procedures, for any future review, until further order of this Court.

6/27/2019

Date



HONORABLE JAMES S. GWIN
UNITED STATES MAGISTRATE JUDGE